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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

A.H.,

Petitioner,

v.

THE SUPERIOR COURT OF FRESNO
COUNTY,

Respondent;

FRESNO COUNTY DEPARTMENT OF
SOCIAL SERVICES,

Real Party in Interest.

F060544

(Super. Ct. Nos. 02CEJ300221-1,
02CEJ300221-2, 02CEJ300221-3)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Mary D.
Dolas, Commissioner.

A.H., in pro. per., for Petitioner.

No appearance for Respondent.

Kevin Briggs, County Counsel, and William G. Smith, Deputy County Counsel,
for Real Party in Interest.

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*Before Levy, Acting P.J., Dawson, J., and Detjen, J.

Petitioner in propria persona seeks an extraordinary writ (Cal. Rules of Court, rule 8.452 (rule)) from the juvenile court's order setting a Welfare and Institutions Code section 366.26 hearing¹ as to her three minor children. We conclude her petition fails to comport with the procedural requirements of rule 8.452. Accordingly, we will dismiss the petition as facially inadequate.

STATEMENT OF THE CASE AND FACTS

Dependency proceedings were initiated in November 2006, when the youngest of petitioner's three children, then five-month-old E., was treated on an emergency basis for a subdural hematoma with retinal hemorrhages consistent with shaken baby syndrome. E. sustained the injuries while in the care and custody of her father, Jesus.

The Fresno County Department of Children and Family Services (department)² took E. and her siblings, then four-year-old J. and two-year-old D., into protective custody and filed a dependency petition on their behalf alleging E. suffered serious physical harm and severe physical abuse inflicted by her father, Jesus (§ 300, subds. (a) & (e)), that Jesus posed a risk of serious physical harm to his son, J. (E.'s sibling) (§ 300, subd. (a)) and that petitioner abused methamphetamine and failed to protect all three children (§ 300, subd. (b).) In July 2007, the juvenile court exercised its dependency jurisdiction, ordered the children removed from parental custody and ordered a plan of reunification for petitioner but denied Jesus services.

In June 2008, the juvenile court placed the children in petitioner's custody under a plan of family maintenance. The court ordered visitation for Jesus to be conducted under the supervision of the department or an approved agency. However, petitioner did not

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² The department is now the Fresno County Department of Social Services.

comply with the court's order. She allowed Jesus to live with the family. Consequently, in December 2008, the department removed the children from her custody and filed a supplemental petition (§ 387).

In January 2009, the juvenile court sustained the petition with modifications and, in March 2009, returned the children to petitioner's custody under family maintenance. The court ordered Jesus not to have any contact with the children while they were in petitioner's custody.

Over the ensuing year, the children remained with petitioner under family maintenance. However, during that time, petitioner began to abuse alcohol. In February 2010, police responded to a domestic violence disturbance at petitioner's apartment. She and her boyfriend, Joe G., had been drinking and Joe hit her in the face, causing redness and bleeding near her eye. The children were present in the apartment. Joe was arrested. Just two weeks prior to this incident, an investigator from the District Attorney's Office visited petitioner and the children to check on their welfare. Joe was in the living room and petitioner introduced him as her cousin. She said he only visited once or twice a month for short visits. She said he never spent the night.

In March 2010, the department filed a second supplemental petition and the children were taken into protective custody for a third time. The supplemental petition alleged petitioner continued to abuse substances, despite extensive services, and that she allowed Joe to have contact with her children without prior clearance. It also alleged petitioner tried to conceal Joe's identity by lying to the investigator.

In April 2010, the juvenile court found the allegations in the supplemental petition true. In July 2010, following a contested dispositional hearing, the juvenile court ordered the children removed from petitioner's custody, ordered no further services and set a section 366.26 hearing. This petition ensued.

DISCUSSION

A lower court's judgment or order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Consequently, an "appellant must affirmatively demonstrate error by an adequate record." (*Bennett v. McCall* (1993) 19 Cal.App.4th 122, 127.) With respect to writ petitions challenging the setting of a section 366.26 hearing, rule 8.452 specifies, inter alia, that the writ petition must include a summary of the significant facts and identify contested legal points with citation to legal authority and argument. (Rule 8.452(b).) At a minimum, the writ petition must "adequately inform the court of the issues presented, point out the factual support for them in the record, and offer argument and authorities that will assist the court in resolving the contested issues." (*Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, 583.)

In this case, petitioner does not provide a summary of the facts, citation to the appellate record, or legal authority to support a claim of juvenile court error. In fact, except for identifying information (name, address, and telephone number), the writ petition is blank, including the space provided for specifying the grounds for error. The only other notation on the petition is a check mark indicating petitioner seeks the return of her children to her custody. Since petitioner fails to set forth a claim of error, her petition is facially inadequate and insufficient for review. Consequently, we will dismiss it.

DISPOSITION

The petition for extraordinary writ is dismissed. This opinion is final forthwith as to this court.